REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF BUREAU OF CUSTOMS AND DISTRICT COLLECTOR OF BATAAN, *Petitioners,*	**CTA *EB* NO. 1811** (CTA Case No.9554)
-versus-	Present: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
COURT OF TAX APPEALS, FIRST DIVISION AND MT ALPINE MAGNOLIA, *Respondents.*	Promulgated: JAN 06 2021 4:08 p.m.

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RESOLUTION

MANAHAN, J.:

For resolution is petitioners' *Motion for Reconsideration (Re: Decision dated 23 January 2020)* filed on February 13, 2020, with private respondent's *Comment/Opposition (Re: Motion for Reconsideration dated 6 February 2020)* posted on July 9, 2020.

Petitioners seek the reconsideration of the Decision of the Court promulgated on January 23, 2020 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the *Petition for Certiorari (With Very Urgent Prayer for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction)* posted on March 12, 2018 is **DENIED.**
>
> Accordingly, the assailed Resolutions dated November 24, 2017 and January 5, 2018 issued by the Court in Division are hereby **AFFIRMED.**
>
> **SO ORDERED."**

Petitioners express their disagreement with the assailed Decision on the following grounds, and we quote:

> "Petitioners are entitled to cross-examine anew in the main action the witnesses presented by private respondent in the ancillary proceedings notwithstanding the procedural rule on consolidation of hearings.
>
> Depriving petitioners of their right to cross-examine amounts to errors of jurisdiction on the part of the CTA First Division."

Intertwined with petitioners' disagreement with the assailed Decision is their dispute with the Resolutions issued by the First Division of the Court (Court in Division) dated November 24, 2017 and January 5, 2018 which they allege to have been issued with grave abuse of discretion amounting to lack or excess of jurisdiction when it admitted all of the evidence presented by the private respondent in support of its application for provisional relief as its evidence for the main action.

Petitioners contend that the proceedings on private respondent's motion for the release of MT Alpine Magnolia are distinct and separate from the proceedings of the main action and that all the evidence presented during the hearing for the ancillary remedy may be adopted if the party so desires. Petitioners, however, emphasize that the other party may choose and even insist on conducting a cross examination *anew* of the witnesses earlier presented. Petitioners allege that the Court in Division committed grave abuse of discretion when it denied petitioners of their opportunity to cross-examine the witnesses and call attention to the apparent indifference of the Court in Division to their Comment/Opposition to private respondent's Formal Offer of Evidence.

Petitioners further challenge the assailed Decision when it based its conclusion on Section 6 of Rule 10 of the Revised Rules of the Court of Tax Appeals (RRCTA) on the ground that it is irrelevant. They assert that Section 6 of Rule 10 of the RRCTA is premised on the filing of a motion for the suspension of the collection of tax liability, while the instant case is a petition questioning the validity of the seizure with an application for the immediate release of MT Alpine Magnolia.

Petitioners submit that they never waived their right to cross-examine the witnesses of private respondent and even insisted on this right during pre-trial.

In conclusion, petitioners reiterate that the Court in Division's denial of their right to cross-examine the witnesses of private respondent is not a mere error of judgment which relates to the wisdom or legal soundness of the decision but is an error of jurisdiction because the office or tribunal acted with grave abuse of discretion amounting to lack or excess of jurisdiction. They pray that the assailed Decision dated January 23, 2020 be set aside and that the Resolutions of the Court in Division dated November 24, 2017 and January 5, 2018 be nullified.

In its Comment/Opposition, private respondent dismisses the arguments of petitioner as mere reiterations of their previous allegations which have already been threshed out and passed upon by the Court in the assailed Decision. It maintains that the Court in Division did not abuse its discretion when it properly admitted its evidence.

Private respondent insists that the Court was within its authority to consolidate the hearings for the suspension of the collection of the tax with the hearing on the merits of the case as clearly provided in Section 6 of Rule 10 of the RRCTA. Private respondent believes that this Motion for Reconsideration filed by petitioners is a mere dilatory tactic which the Court should not tolerate.

RULING OF THE COURT

The issues raised in petitioners' *Motion for Reconsideration* have been considered and exhaustively passed upon in the assailed Decision but this Court believes that the rulings therein deserve emphasis, hence we shall again confront and discuss the important points raised.

Petitioners repeatedly maintain that *Certiorari* under Rule 65 of the Revised Rules of Court is the proper remedy because public respondent issued the assailed Resolution (dated November 24, 2017) admitting all of private respondent's evidence without ruling on their opposition thereto and without giving them the opportunity to cross-examine the witnesses presented by private respondent.

Petitioners' contention is bereft of merit.

It is clear from the records of the case that the exhibits offered by private respondent in the main case are the same as those exhibits offered to support its Motion for Immediate Release of MT Alpine Magnolia, and which were all admitted in the Court's Resolution dated April 20, 2017. We quote with approval the ruling of the Court in Division in its assailed Resolution dated January 5, 2018:

> "Contrary to respondents' claim, records show that they were given ample opportunity to cross-examine the witnesses of petitioner during their presentation on April 4, 2017 relative to the aforesaid petitioner's Motion for Immediate Release of MT Alpine Magnolia. Petitioner's witnesses testified in Court by way of their respective Judicial Affidavits and except for petitioner's witness, Mr. Dumpleton Richard William, who was not subjected to cross-examination by respondents' counsel despite the opportunity to do so, the other witnesses of petitioner in the persons of Ms. Alexandra Tsamadou, Captain Jerry Olores and Mr. Nelson A. Romero were subjected to lengthy cross-examination by respondents' counsel. The Court even clarified several points from petitioner's witnesses in line with the mandate of the Judicial Affidavit Rule that "in every case, the court shall take active part in examining the witness to determine his credibility as well as the truth of his testimony and to elicit the answers that it needs for resolving the issues.
>
> Respondents cannot rightly demand petitioner to present again the latter's witnesses for further cross-examination as the testimonies of said witnesses has *(sic)* already been terminated during the April 4, 2017 hearing, more so, as petitioner opted

> to rest its case by formally offering the same exhibits as that which were offered and admitted in its Motion for Immediate Release of MT Alpine Magnolia. **Truth to tell, the adoption of the previously offered and admitted exhibits during the proceedings for the ancillary relief as petitioner's exhibits in the main case is the prerogative of petitioner."**(emphasis supplied)

The Court in Division acted within its authority when it decided to consolidate the hearing for the suspension of the collection of the tax with the hearing on the main action based on the clear wordings of Section 6 of Rule 10 of the RRCTA, and we quote:

> **"Rule 10**
> **Suspension of Collection of Tax**
>
> Section 6. *Hearing of the motion.* – The movant shall, upon receipt of the opposition, set the motion for hearing at the next available motion day, and the Court shall give preference to the motion over all other cases, except criminal cases. At the hearing, both parties shall submit their respective evidence. If warranted, the Court may grant the motion if the movant shall deposit with the Court an amount in cash equal to the value of the property or goods under dispute or filing with the Court of an acceptable surety bond in an amount not more than double the disputed amount or value. **However, for the sake of expediency, the Court *motu proprio* or upon motion of the parties, may consolidate the hearing of the motion for the suspension of the collection of the tax with the hearing on the merits of the case."** (emphasis supplied)

The allegation of petitioners that the Court in Division acted arbitrarily and with grave abuse of discretion when it issued the assailed Resolutions is without legal basis because these were done in compliance with the relevant rules and as adjudged by the Court in the assailed Decision, "pursuant to the duty of a party to a case to present evidence necessary to establish his claim or defense by the amount of evidence required by law."[1]

It bears stressing that there was no violation of petitioners' right to due process as the records show that they were given the opportunity to cross-examine the witnesses

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1 Rule 131
Section 1. *Burden of proof.* – Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.

presented by the private respondent during the hearing held on April 4, 2017.[2]

An essential requisite for filing a petition for certiorari is the allegation that the judicial tribunal acted with grave abuse of discretion amounting to lack or excess of jurisdiction.[3] For grave abuse of discretion to prosper as a ground for certiorari, it must be demonstrated that the lower court or tribunal has exercised its power in an arbitrary and despotic manner, by reason of passion or personal hostility, and it must be patent and gross as would amount to an evasion or to a unilateral refusal to perform the duty enjoined or to act in contemplation of law.[4]

Applying the foregoing principles enunciated by the Supreme Court, we find that the Court in Division did not act with grave abuse of discretion in issuing the assailed Resolutions. In fact, the rulings therein were made within the sound discretion of a court of law based on relevant laws, rules and jurisprudence.

WHEREFORE, premises considered, petitioners' *Motion for Reconsideration (Re: Decision dated 23 January 2020)* filed on February 13, 2020, is **DENIED** for lack of merit.

The Decision promulgated by the Court *En Banc* on January 23, 2020 is **AFFIRMED.**

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

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[2] TSN on the hearing held on April 4, 2017, pp. 20-124.
[3] *Marvin Cruz and Francisco Cruz vs. People of the Philippines,* G.R. No. 224974, July 3, 2017.
[4] *Angeles City vs. Angeles Electric Corp.*, G.R. No. 166134, June 29, 2010.

WE CONCUR:

(I reiterate my Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

(with due respect, I join Justice Villena's
Concurring and Dissenting Opinion)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

(took no part)
ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I maintain my Concurring and Dissenting Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice